

§ 655.1260

that employer under section 212(m) of the INA.

§ 655.1260 Can Equal Access to Justice Act attorney fees be awarded?

A proceeding under subpart L or M of this part is not subject to the Equal Access to Justice Act, as amended, 5 U.S.C. 504. In such a proceeding, the administrative law judge shall have no authority to award attorney fees and/or other litigation expenses under the provisions of the Equal Access to Justice Act.

PART 656—LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Subpart A—Purpose and Scope of Part 656

Sec.

656.1 Purpose and scope of part 656.

656.2 Description of the Immigration and Nationality Act and of the Department of Labor's role thereunder.

656.3 Definitions, for purposes of this part, of terms used in this part.

Subpart B—Occupational Labor Certification Determinations

656.5 Schedule A.

Subpart C—Labor Certification Process

656.10 General instructions.

656.15 Applications for labor certification for *Schedule A* occupations.

656.16 Labor certification applications for sheepherders.

656.17 Basic labor certification process.

656.18 Optional special recruitment and documentation procedures for college and university teachers.

656.19 Live-in household domestic service workers.

656.20 Audit procedures.

656.21 Supervised recruitment.

656.24 Labor certification determinations.

656.26 Board of Alien Labor Certification Appeals review of denials of labor certification.

656.27 Consideration by and decisions of the Board of Alien Labor Certification Appeals.

656.30 Validity and invalidation of labor certifications.

656.31 Labor certification applications involving fraud or willful misrepresentation.

656.32 Revocation of approved labor certifications.

20 CFR Ch. V (4-1-06 Edition)

Subpart D—Determination of Prevailing Wage

656.40 Determination of prevailing wage for labor certification purposes.

656.41 Certifying Officer review of prevailing wage determinations.

AUTHORITY: The Authority citation for part 656 is revised to read as follows: 8 U.S.C. 1182(a)(5)(A), 1189(p)(1); 29 U.S.C. 49 *et seq.*; section 122, Pub. L. 101-649, 109 Stat. 4978; and Title IV, Pub. L. 105-277, 112 Stat. 2681.

SOURCE: 69 FR 77386, Dec. 27, 2004, unless otherwise noted.

Subpart A—Purpose and Scope of Part 656

§ 656.1 Purpose and scope of part 656.

(a) Under section 212(a)(5)(A) of the Immigration and Nationality Act (INA or Act) (8 U.S.C. 1182(a)(5)(A)), certain aliens may not obtain immigrant visas for entrance into the United States in order to engage in permanent employment unless the Secretary of Labor has first certified to the Secretary of State and to the Secretary of Homeland Security that:

(1) There are not sufficient United States workers who are able, willing, qualified and available at the time of application for a visa and admission into the United States and at the place where the alien is to perform the work; and

(2) The employment of the alien will not adversely affect the wages and working conditions of United States workers similarly employed.

(b) The regulations under this part set forth the procedures through which such immigrant labor certifications may be applied for, and granted or denied.

(c) Correspondence and questions about the regulations in this part should be addressed to: Division of Foreign Labor Certification, Employment and Training Administration, 200 Constitution Avenue, NW., Room C-4312, Washington, DC 20210.

§ 656.2 Description of the Immigration and Nationality Act and of the Department of Labor's role thereunder.

(a) *Description of the Act.* The Act (8 U.S.C. 1101 *et seq.*) regulates the admission of aliens into the United States.